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September 5, 2006

TO: Examiner Fozia Hamud  
Group 1647  
(571) 272-0884

FROM: Justin D. Karjala  
Celera Genomics Corp.  
(240) 453-3812

FAX NO: (571) 273-8300

# OF PAGES (incl. cover): 8

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Re: U.S. Serial No. 10/801,837, filed March 17, 2004  
Entitled "ISOLATED HUMAN SECRETED PROTEINS, NUCLEIC ACID  
MOLECULES ENCODING HUMAN SECRETED PROTEINS, AND USES  
THEREOF"  
Attorney Docket No.: CL001229-DIV

A Preliminary Amendment (Restriction Election) in the above-identified application  
follows. No fee is due for this submission.

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SEP 05 2006

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Ellen BEASLEY et al.

Art Unit: 1646

Serial No.: 10/801,837

Examiner: Hamud, F.

Filed: March 17, 2004

Atty. Docket: CL001229-DIV

For: ISOLATED HUMAN SECRETED  
PROTEINS, NUCLEIC ACID MOLECULES  
ENCODING HUMAN SECRETED PROTEINS,  
AND USES THEREOF

## PRELIMINARY AMENDMENT

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

*By Facsimile*

Sir:

This is in response to an Office Action mailed on September 3, 2006 from Examiner Hamud in which a restriction requirement was issued for the above-referenced application.

In response to the restriction requirement, Applicants hereby elect, with traverse, claim group III (claim 3, drawn to antibodies) for examination and have canceled claims corresponding to the non-elected groups II and IV-X.

However, applicants respectfully request that the Examiner reconsider the claim division of the restriction requirement and combine group III (drawn to antibodies) with group I (drawn to polypeptides).

In particular, examination of the antibody claims of group III, in which the antibodies claimed in the group III claims selectively bind the polypeptides that are claimed in the group I claims (as in the instant situation), is based in part on search and examination of the amino acid sequence of the polypeptides claimed in the group I claims. Therefore, because the search and examination necessary to examine the claims of group III inherently includes a search of the amino acid sequence of the polypeptides

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claimed in the group I claims, a search and examination of the group III claims inherently includes a search and examination of the group I claims. Thus, it is believed that the effort required to search and examine both groups I and III together is not substantially greater than the effort required to search and examine group III alone, and therefore search and examination of the claims of groups I and III combined would not unduly burden the Examiner with additional review issues.

Accordingly, Applicants are hereby amending claim 3 and presenting new claims 24-36 drawn to antibodies and respectfully request entry, search, and examination of these antibody claims. Additionally, should the Examiner reconsider the restriction requirement based on the above remarks and combine group I (polypeptides) with group III (antibodies), Applicants are also hereby amending claims 1-2 and presenting new claims 37-38 drawn to polypeptides and respectfully request entry, search, and examination of these polypeptide claims together with the antibody claims.

Please amend the application as follows: